



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: **08 June 2005**

Comment Deadline: **07 July 2005**

Corps Action ID #: **200531913**

All interested parties are hereby advised that the Wilmington District, Corps of Engineers (Corps) has received an application for work within jurisdictional waters of the United States. Specific plans and location information are described below and shown on the attached plans. This Public Notice and all attached plans are also available on the Wilmington District Web Site at www.saw.usace.army.mil/wetlands

Applicant: A. Perin Development Company, LLC
12 Valley Place
Chester, NJ 07930

AGENT (if applicable): Kimley-Horn & Associates, Inc.
Attn: Todd St. John
P.O. Box 33068
Raleigh, NC 27636-3068

Authority

The Corps will evaluate this application and decide whether to issue, conditionally issue, or deny the proposed work pursuant to Section 404 of the Clean Water Act.

Location

The existing commercial development known as Jackson Station II is located on the east side of NC Hwy 16, in Waxhaw, Union County, North Carolina (34.9326848°N -80.7462858°W) and is approximately 60 acres in size. The proposed impacts are located immediately adjacent to an existing retaining wall at the CVS Pharmacy retail store. The site is immediately adjacent to NC Hwy 16 and is the western most building pad in the mixed-use development known as Jackson Station II. The site contains wetlands and unnamed tributaries to Blythe Creek. Blythe Creek flows into the Catawba River, which ultimately flows into the Atlantic Ocean through the Santee-Cooper River in South Carolina.

Existing Site Conditions

Jackson Station II is located in the Carolina Slate Belt Ecoregion. The site is located at the top of a watershed that flows into unnamed tributaries to Blythe Creek. The area consists of gently rolling hills. A majority of the property has already been graded and contains roads, stormwater detention facilities, and building pads. Figure 3 depicts a site plan showing the entire property with existing infrastructure. The NRCS Soil Survey of Union County, North Carolina maps the following soils as existing at the site before grading had taken place: Udorthents (Ud), Tatum gravelly, silty, clay, loam (TbB2, TbC2), and Badin Channery silty, clay, loam (BdC2). None of the soils mapped by the NRCS Soil Survey are considered hydric in North Carolina by the NRCS.

The entire property contains unnamed tributaries to Blythe Creek in the Catawba River Basin (HUC 03050103). The proposed impact site has approximately 188 feet of unnamed tributary to Blythe Creek and approximately 0.10 acres of associated wetlands. The stream was most likely a Rosgen classification Bc type channel with a bankfull width of 2 to 3 feet. However, these areas have been heavily impacted by urbanization and are cut off from the downstream riparian areas due to existing downstream road crossings. The wetlands on the site consist of the following species: yellow poplar (*Liriodendron tulipifera*), red maple (*Acer rubrum*), tag alder (*Alnus serrulata*), microstegium (*Microstegium vimineum*), knotweed (*Polygonum* spp.), cattail (*Typha latifolia*), and soft rush (*Juncus effuses*). Typically this plant community would be a Mesic Hardwood community, however due to the disturbed, fragmented nature of the Jackson Station II site, it no longer can be classified as such. The wetlands and stream channels at the impact site are considered poor to fair quality.

Previous impacts to jurisdictional areas have occurred on the site under Nationwide Permit #39 authorization dated November 1, 2002. Impacts to stream channels associated with this authorization were 250 feet of important stream channel and 700 feet of unimportant stream channel. These impacts were associated with the construction of a road crossing and stormwater detention facility. Nationwide Permit #12 dated June 20, 2004 authorized temporary impacts to approximately 80 linear feet of stream channel associated with the construction of a sewer line.

Applicant's Stated Purpose

As stated by the applicant, the purpose and need for the project is to remove the safety and liability issues created by the existing retaining wall. Since its construction, the wall has been a source of concern for Town of Waxhaw officials including the Town Manager and Chief of Police. The applicant proposes to remove a portion of the retaining wall by constructing a safer, earthen slope.

Project Description

The applicant is proposing to impact approximately 188 linear feet of stream channel and 0.10 acre of wetlands by placing fill material adjacent to the retaining wall. The original purpose for constructing the retaining wall was an attempt to remain below notification thresholds for a 401 Water Quality Certification and the subsequent requirement for stormwater BMPs. However, impacts associated with the development of the site eventually necessitated a written 401 Water Quality Certification from NCDWQ.

The retaining wall is constructed of gabion baskets and is approximately 34 feet tall. The applicant will backfill a majority of this wall with earthen fill. The applicant has secured a slope easement from Henn Automotive, Inc. to construct 2:1 side slopes sufficient to bury the wall so that only a small section of wall would remain. The applicant proposes compensatory mitigation through the purchase of 188 feet of stream mitigation credits and 0.1 acres of wetland mitigation credits from the North Carolina Ecosystem Enhancement Program. See attached Figures 4 and 5 for a detailed site plan.

Other Required Authorizations

This notice and all applicable application materials are being forwarded to the appropriate State agencies for review. The Corps will generally not make a final permit decision until the North Carolina Division of Water Quality (NCDWQ) issues, denies, or waives State certification required by Section 401 of the Clean Water Act (PL 92-500). The receipt of the application and this public notice in the NCDWQ Central Office in Raleigh serves as application to the NCDWQ for certification. A waiver will be deemed to occur if the NCDWQ fails to act on this request for certification within sixty days of the date of the receipt of this notice in the NCDWQ Central Office. Additional information regarding the Clean Water Act certification may be reviewed at the NCDWQ Central Office, 401 Oversight and Express Permits Unit, 2321 Crabtree Boulevard, Raleigh, North Carolina 27604-2260. All persons desiring to make comments regarding the application for certification under Section 401 of the Clean Water Act should do so in writing delivered to the North Carolina Division of Water Quality (NCDWQ), 1650 Mail Service Center, Raleigh, North Carolina 27699-1650 Attention: Ms. Cyndi Karoly by 07 July 2005

Cultural Resources

The Corps has consulted the latest published version of the National Register of Historic Places and is not aware that any registered properties, or properties listed as being eligible for inclusion therein are located within the project area or will be affected by the proposed work. Presently, unknown archeological, scientific, prehistoric, or historical data may be located within the project area and/or could be affected by the proposed work.

Endangered Species

The Corps has reviewed the project area, examined all information provided by the applicant and consulted the latest North Carolina Natural Heritage Database. Based on available information, the Corps has determined pursuant to the Endangered Species Act of 1973, that the proposed project will have no effect on federally listed endangered or threatened species or their formally designated critical habitat.

Evaluation

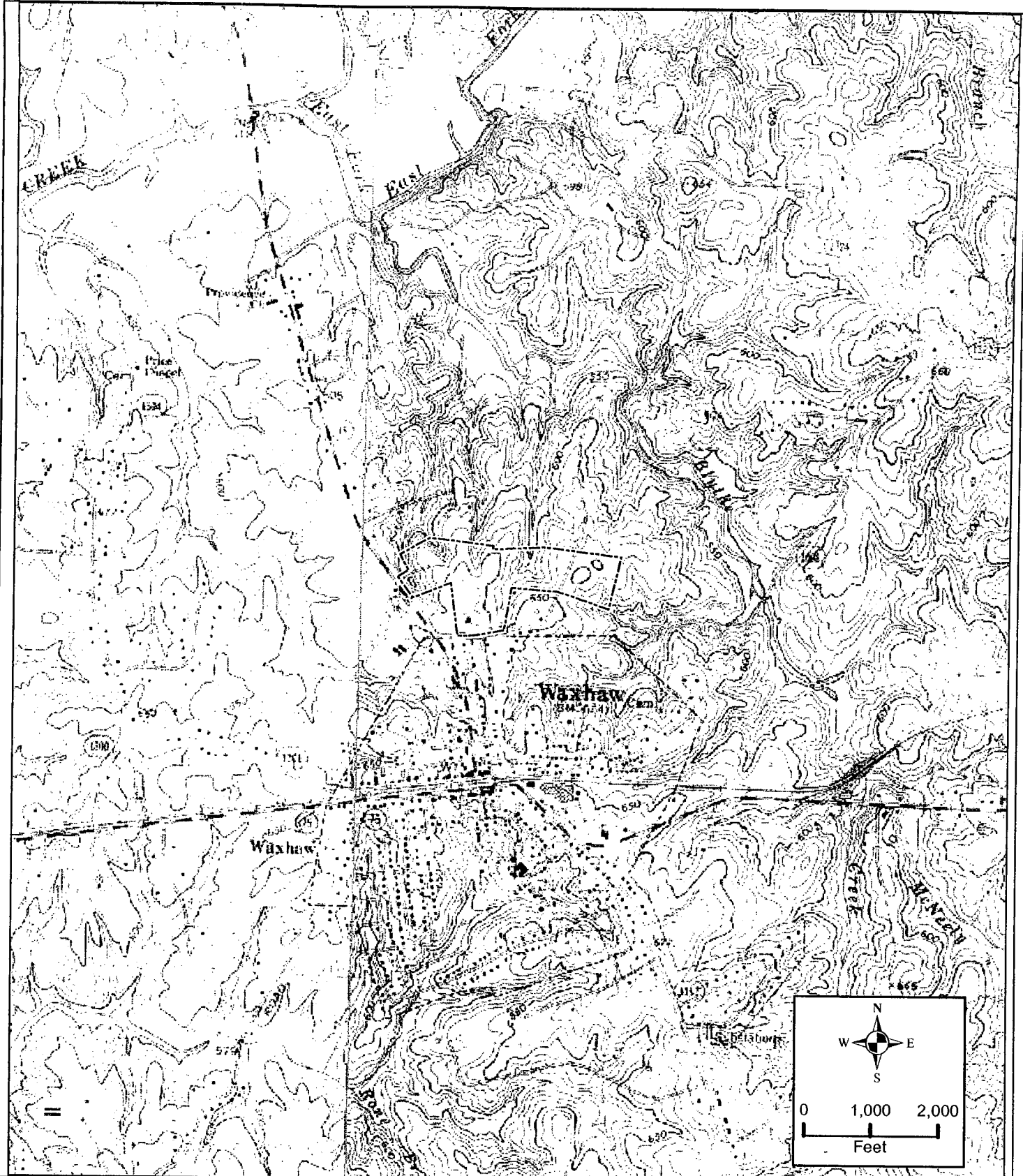
The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values (in accordance with Executive Order 11988), land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving the discharge of dredged or fill materials in waters of the United States, the evaluation of the impact of the activity on the public interest will include application of the Environmental Protection Agency's 404(b)(1) guidelines.

Commenting Information

The Corps is soliciting comments from the public; Federal, State and local agencies and officials; Indian Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

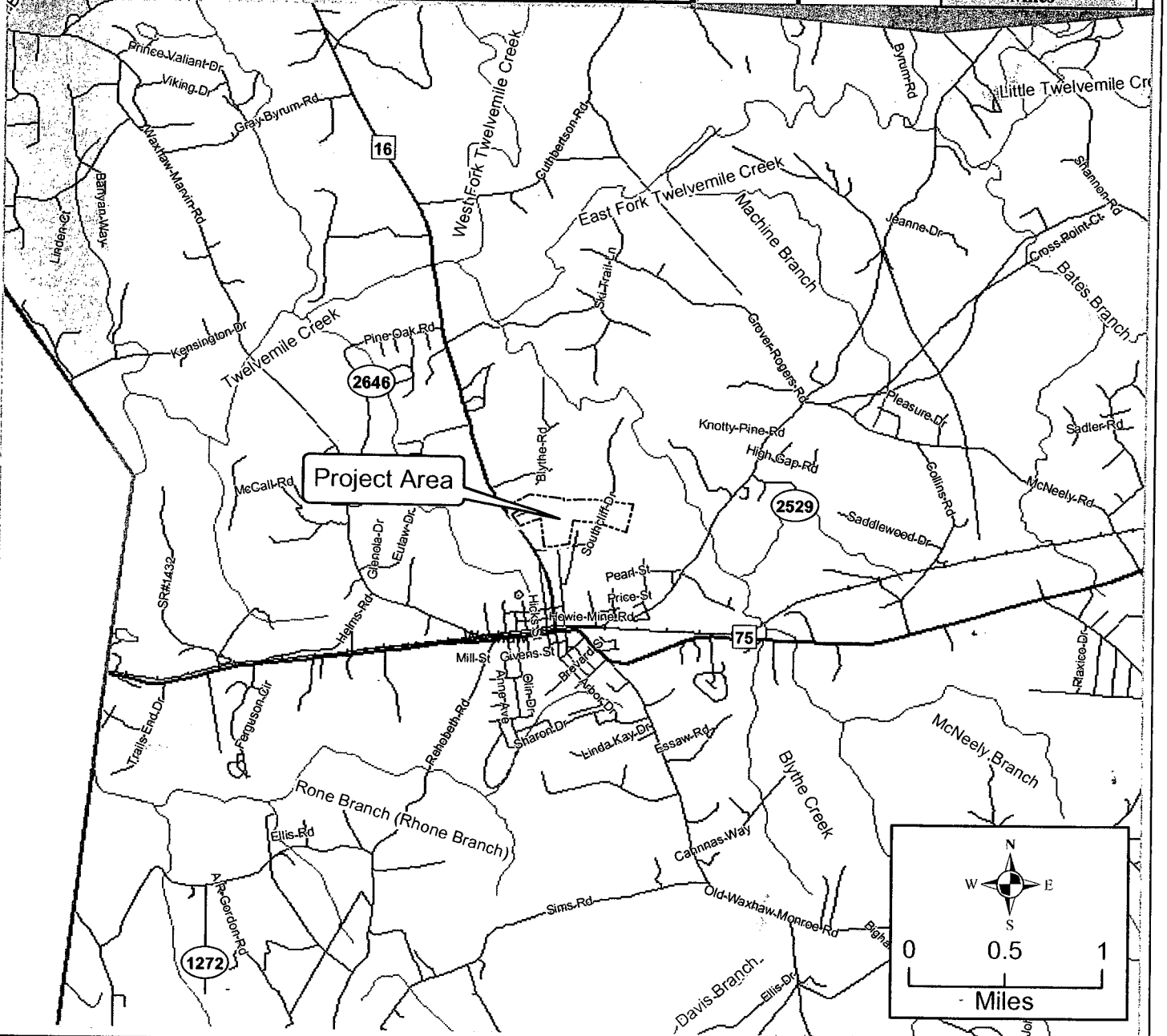
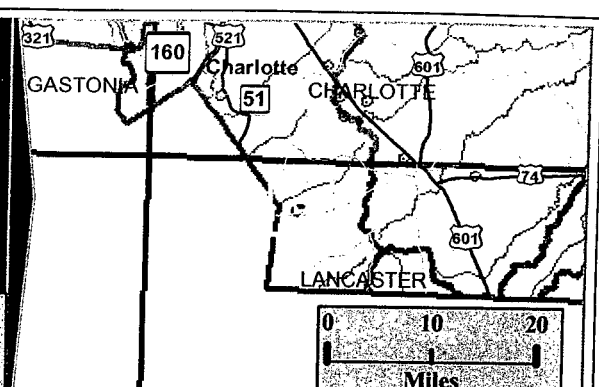
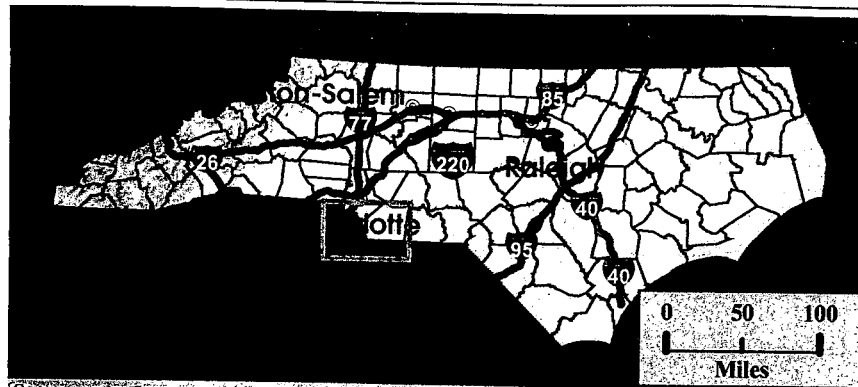
Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing shall be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.

Written comments pertinent to the proposed work, as outlined above, will be received by the Corps of Engineers, Wilmington District, until 5pm, 07 July 2005. Comments should be submitted to Ms. Amanda Jones, 151 Patton Avenue, Room 208, Asheville, NC 28801.



Title USGS Quad Map (Catawba NE 1988, Waxhaw 1988)

Prepared For: Jackson Station II, LLC.	Project Jackson Station II, Waxhaw Union County, North Carolina	ADD 2005 31913	
	Date 4/18/05	Project Number 012538002	Figure 1



Title		Location Map		
Prepared For: Jackson Station II, LLC.	Project	Jackson Station II, Waxhaw Union County, North Carolina		
	Date	4/18/05	Project Number	012538002
Figure				2

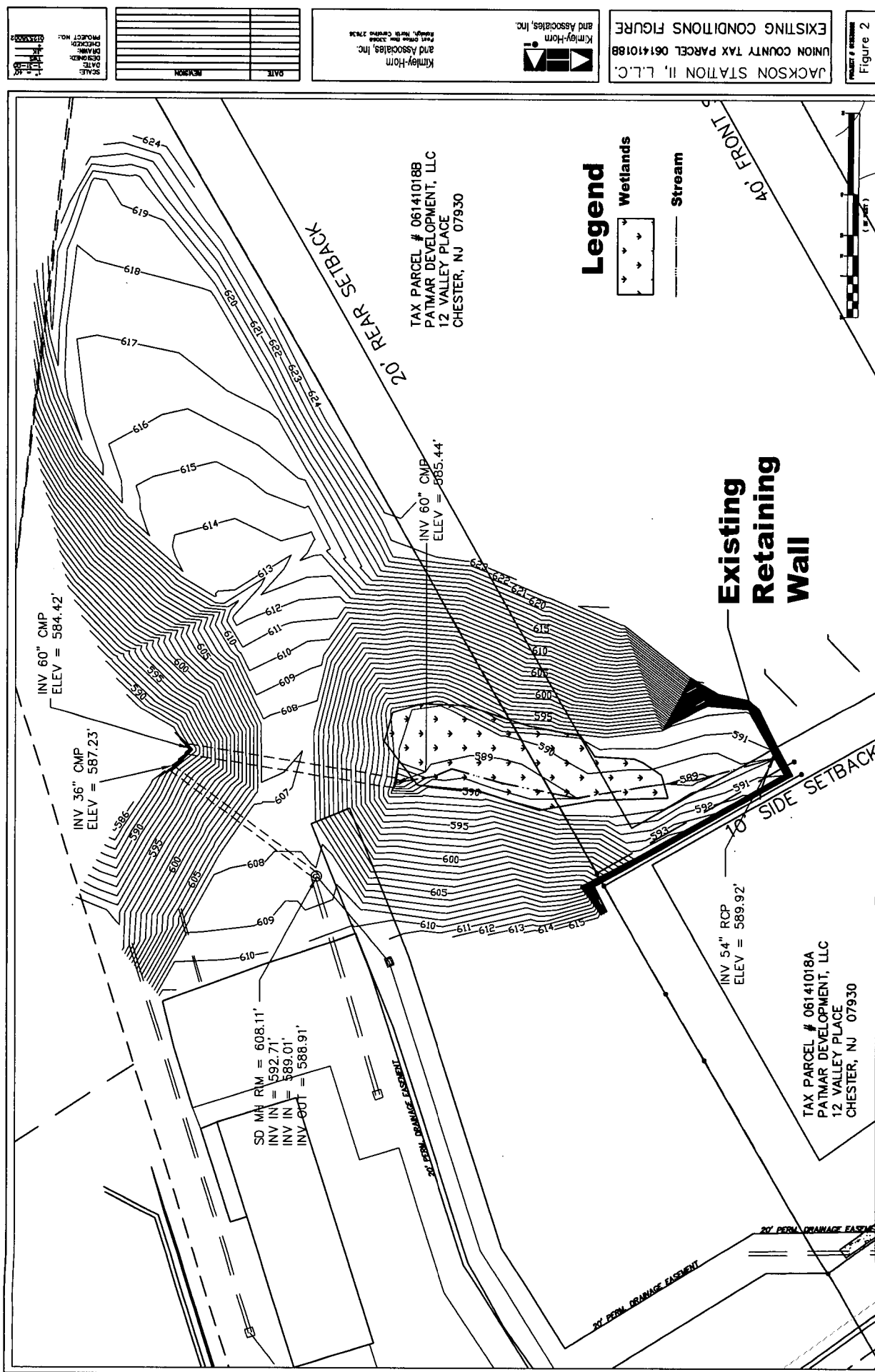


Fig: 4

ATD 20531913

